IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 26223 of 2003(V)

PETITIONERS:

1. **P.A.UNNIKRISHNAN, 'AMBADI', CHANGAMPUZHA NAGAR, KALAMASSERY SOUTH – 682 033, (CHIEF DRAFTSMAN) (HINDUSTAN INSECTICIDES LIMITED).**

2. **E.P.VENUGOPAL, 'DEVEEKRIPA', GOVERNMENT HIGH SCHOOL ROAD, THIRUVANKULAM, ERNAKULAM DISTRICT (PVT. SECRETARY TO GM) -DO- -DO-**

3. **M.O.ANTONY, MANAKIL HOUSE, KODUVAZHANGA, NEERIKODE P.O, (OPERATOR GR.I) -DO- -DO-**

4. **P.GOPINATHAN, MUDAPPATHY HOUSE, KANNADI PARAMBU P.O., KANNUR DISTRICT (SHIFT PRODUCTION SUPERVISOR) -DO- DO-**

5. **T.R.RAJU, THEVARAN, MANTTUPARAMBU, NAYARAMBALAM – 682 509 (SHIFT PRODUCTION SUPERVISOR) -DO- -DO-**

6. **M.K.SUKUMARAN, MUDAKAR PILLAI, MANJUMMEL P.O. 683 501,(OPERATOR GR.I).**

7. **M.L.XAVIER, MULLOTH HOUSE, DO. DO. PONEKKARA, EDAPPALLY, ELAMAKKARA 683 501, (OPERATOR GR.I) -DO- -DO-**

8. **C.K.GOPI, S/O. KANNAN, KANAPPILLI PARAMBIL HOUSE, MANJUMMEL P.O., (LEADSMAN FITTER) -DO- -DO-**

9. **T.V.MATHAI, THOLANIKUNNEL, MANNATHUR P.O., PAMPAKUDA, (OPERATOR GR.II) -DO- -DO-**

10. **V.S.B ALANCHANDRAN, VELLOLIL HOUSE, WEST KORATTY, MAMBRA P.O., (ELECTRICIAN GR.I) DO- DO-**

**11. MATHAI A. JOHN, EALAKKATTIL HOUSE,
THIRUVANIYOOR P.O.,
PUTHENCRUZ (VIA) 682 308,(QUALITY CONTROL
SUPERVISOR) DO- DO-**

**12. K.E. CHANDRAMOHAN, VAYALIMBHAGATH HOUSE,
KOTTAYAM POIL P.O., PATHAYAKUNNU
VIA, THALASSERY (OPERATOR GR.II) DO. DO.**

**13. P.O.POULOSE, POLLAYIL HOUSE,
ALANGAD P.O., KUNNEL 683 511, (MATERIAL
HANDLING LABOURER) DO. DO.**

**14. MATHEWS M.JACOB, MENOTH MALIL HOUSE,
RABA MANGALAM P.O., PERUMVABOOR VIA.
683 545, (QUALITY CONTROL SUPERVISOR) DO. DO.**

**15. A.N.SUBRAMANIAN, AMMANAKUZHI HOUSE,
ELOOR NORTH, UDYOGAMANDAL P.O.
FITTER GR,.II DO. DO.**

**16. K.AHAMMED PILLA, KATTILA PARAMBIL HOUSE,
VALLYKUNNAM P.O., EDAPPILLY (N), 682 024,
(OPERATOR GR.II) DO. DO.**

**17. M.J.KURIAKOSE, MULLAPARAMBIL HOUSE,
MUPPATHADAM P.O., ALUVA,(OPERATOR GR.II) DO. DO.**

**18. T.G.RAJAN, THEVARAPILLI HOUSE, THATTANPADI,
VELLARAPILLI (S) P.O., 683 580
(SENIOR ASSISTANT) DO. DO.**

**19. V.A. KUMARAN, VAYALAKDU HOUSE,
MUPPATHADAM P.O., ALUVA
683 110, MASON GR.III DO. DO.**

**20. P.KRISHNANKUTTY NAIR, S/O. G.PADMANABA PILLAI,
'SRUTHI',TTHAIKKATTUKARA P.O.,
ALUVA 683 106/. (STOCK VERIFIER (DPRVISL HTSFR) DO. DO.**

**21. K.E.SIVANANDAN, POORATHIL CHERUPUNIAL,
CHEMPILAVU P.O., 686 584,
(SR. STORE KEEPER) DO. DO.**

**22. P.THANKAM, 'SARALA MANDIRAM',
PALLURUTHY, KOCHI-6, (SUPDT. (GENERAL SERVICE) DO. DO.**

**23. SUDHA P.SANKARAN, 'KARTHIKA', MUTTAM,
THAIKAVE, THAIKATTUKARA P.O., ALUVA,
(SUPERINTENDENT ACCOUNTS) DO. DO.**

24. P.V.ANNA RADHIKA, 'SIMON COTTAGE, EAST KADUNGALLOOR , U.C.COLLEGE P.O., ALUVA 2 (SUPERINTENDENT-PURCHASE) DO. DO.

25. C.J.JOSEPH, CHEMPLAYIL HOUSE, MUNDAKAL, PALA, KOTTAYAM (DIST), FITTER GR.I DO.

26. E.E.ELIAS, ERUMALAYIL HOUSE, NO.117/XXI, ROSE LINE, THOTTAKKATTUKARA PO.O., (OPERATOR GRADE I DO. DO.

27. P.T.VARGHESE, PARAYIL HOUSE, ELOOR EAST, NEAR ESI DISPENSARY, UDYOGAMANDAL P.O., SENIOR STORE KEEPER DO. DO.

28. K.M.VARKEY, PANAMPARAMBIL HOUSE, MANJUMMEL P.O., 683501 (OPERATOR GR.II) DO. DO.

29. P.K.SANKARANARAYANAN, S/O. KOCHUPAPPU, CHALARPADAM HOUSE, ALANTHURUTH, VADAKKEKARA, N. PARUR (OPERATOR GR.I) DO. DO.

30. K.P.VIJAYAN, KIZHAKKAVEEDU, THAIKATTUKARA P.O., AMBATTUKAVE, ALUVA (OPERATOR GR.I) DO. DO.

31. N.K.SIVAN, NAMBRALIL, SOUTH VAZHAKULAM, ALUVA- 683 105. (OPERATOR GR.I) DO. DO.

32. D.MATHAI, MOOLAYIL HOUSE, MANJUMMEL P.O., UDYOGAMANDAL 683 501, (LEADSMAN-PACKER) DO. DO.

33. P.P.ANTONY, PANAKKAL HOUSE, CHAPAL LINE, ALUVA (LEADSMAN- OPERATORp) DO. DO.

34. D.CHERIAN, PALLIKUNNIL HOUSE, NEAR CSI CHURCH, ALUVA 683101, (SHIFT PRODUCTION SUPERVISOR) DO. DO.

35. K.C.CHENNAN, S/O.CHAKKAN, KALAMUTT PARAMBIL HOUSE, CHEMGAMANAD P.O., ALUVA(MASON GR.II) DO. DO.

36. V.A.MOHAMMED KUNJU, VALLAMKOTIL HOUSE, ELOOR EAST, UDYOGAMANDAL 683 501. (PACKER GR.II) DO.

37. K.G.PAUL, KANOTH HOUSE, ELOOR (S), UDYOGAMANDAL P.O., 683 501 (SHIFT PRODUCTION SUPERVISOR) DO. DO.

38. V.J.JOSEPH, VADAKKEPARAMBIL HOUSE, MUTHIRAMALA, KARUKACHAL P.O., KOTTAYAM DISTRICT 686 540, QUALITY CONTROL SUPERVISOR) DO. DO.

39. THOMAS SEBASTIAN, VADAKKE PARAMBIL, HOUSE, MUTHIRAMALA, KARUKACHAL P.O., KOTTAYAM DISTRICT 686 540 (ANALYST GR.I) DO.

40. M.G.NARAYANAN, MUNDAPUZHA, RUBBER BOARD,P.O., PUTHUPALLY, KOTTAYAM DISTRICT 686 009. (HELPER) DO.

41. K.B.RAJAN, KANJIKAL HOUSE, CHUNANGAMVELY P.O, ALUVA 683 105 (SHIFT PRODUCTION SUPERVISOR) DO. DO.

42. A.M.KRISHNA UNNI, 'KRISHNA SREE'. HOSPITAL ROAD, THRIPUNITHURA (DEPUTY PLANT SUPERVISOR) DO. DO.

43. P.G.VICHITHRAN, PAMBALAMALIL HOUSE, PAYYAL, NEAR OTAKALI JUNCTION, NEDUNGAPRA P.O., PERUMBAVOOR- 683 545, (PLANT SUPERINTENDENT) DO,

. 44. V.VIKRAMAN NAIR, 'ANJU VIHAR', PARAYAMUTTOM, KULATHOOR, VAZHAKADA P.O. NEYYATTINKARA, TRIVANDRUM (FITTER GR.I) DO. DO.

45. P.V.KUMARAN, S/O.VAREED, KORAVANKUNNU, NEDUMBSSERY, ATHANI P.O., ALUVA (MASON GR.II) DO. DO.

46. M.C.MATHAI, MUKKUNGAL HOUSE, CHILAVANNOOR, KADAVANTHARA P.O., KOCHI 20. (LEADSMAN-BOILER OPERATOR) DO. DO.

47. K.V.BHASKARAN PILLAI, KOTTARAPPATTU HOUSE, MANAKA PADI, KARUMALOOR P.O. (OPERATOR GRADE I) DO. DO.

48. K.P.THOMAS, KARUTHEDATH HOUSE, PIPELINE ROAD, THAIKATTUKARA P.O., ALUVA (OPERATOR GR.I DO. DO.

49. P.PURUSHOTHAMAN, 'SARO NIVAS', MANJUMMEL P.O., ARATTUKADAVU ROAD, ELOOR (OPERATOR GRADE I) DO.

50. P.A.MAJEED, PALLIKKARA HOUSE, KOTTUVADI MUKKU, MANJUMMEL P.O. (SHIFT PRODUCTION SUPERVISOR) DO.

51. M.VADIVEL, VELLAKULATH HOUSE, NATHOLY PARAMBU, JANATHA ROAD MANJUMMEL, P.O., HELPER DO.

BY ADV. SRI.M.C.SEN
SMT.SHAHNA KARTHIKEYAN

RESPONDENTS:
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1. HINDUSTAN INSECTICIDES LTD., (A. GOVT. OF INDIA) REP.BY THE MANAGING DIRECTOR, OFFICE OF THE COMPANY, 2ND FLOOR CORE 6 SCOPE COMPLEX, LODI ROAD, NEW DELHI.

2. GENERAL MANAGER, HINDUSTAN, INSECTICIDES LTD., ELOOR 683 501.

BY ADV. SRI. SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR S.C.
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.26223/2003

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE EMPLOYES VOLUNTARY RETIREMENT SCHEME, 2002 WITH THE OFFICE ORDER NO.1461. DT. 28.1.02.

EXT.P2:- COPY OF THE ORDER OF THE 1ST RESPONDENT DT. 12.8.02.

EXT.P3:- COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE 48TH PETITIONER DT. 21.7.03.

EXT.P4:- COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE 49TH PETITIONER, DT. 21.7.03.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE OFFICE MEMORANDUM DT. 28TH FEBRUARY 2002.

/TRUE COPY/

P.S. TO JUDGE

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No.26223 OF 2003-V

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Dated this the 17th day of July, 2007.

JUDGMENT

By Ext.P1 Office Order, the first respondent company, employer of the petitioners, resumed a Voluntary Retirement Scheme, which was notified thereby. In so far as payment of arrears towards gratuity, leave encashment etc. on account of pay revision, if any, the same shall be settled as per Government Orders received from time to time. For all other intents and purposes, the Scheme was not liable to be altered. After a month of issuance of Ext.P1 Office Order, which was acted upon by the employees, in particular, the petitioners, the Government of India issued Ext.R1(a) Office Memorandum through its Department of Public Enterprises in the Ministry of Heavy Industries & Public Enterprises

laying down certain parameters for formulation of voluntary retirement schemes by the public sector undertakings. The said Office Memorandum issued by the Government, though may be binding on companies which are yet to take decisions in so far as it expresses the decision of the Government which is a majority share-holder, that cannot be intended to interfere with the terms of the contract between the employer and voluntarily retiring employee in terms of a voluntary retirement scheme already in place and binding the parties and which has been acted upon. Reference in support of this can be made to the decisions of the Apex Court in **HEC Voluntary Retd. Employees Welfare Society v. Heavy Engineering Corpn. Ltd.** [(2006) 3 SCC 708] and **A.K.Bindal v. Union of India** [(2003) 5 SCC 163].

Under the aforesaid circumstances, this writ petition is allowed declaring that Ext.R1(a) Scheme would not apply to govern the petitioners and the first respondent in the application of Ext.P1 Scheme and no modification can

be made on the basis of Ext.R1(a), while the payment of arrears towards gratuity, leave encashment etc. on account of pay revision, if any, will be settled as per Government Orders received from time to time.

Sd/-
THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-